

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Pending before the Court is the Motion to Dismiss, (ECF No. 11), filed by Defendants Shelly Bryant (“Bryant”) and The Lakes Crossing Center (“The Lakes”). Plaintiff Charles R. Brown (“Plaintiff”) filed a Response, (ECF No. 15), to which Bryant and The Lakes filed a Reply, (ECF No. 17).,

Also pending before the Court is the Motion to Dismiss, (ECF No. 12), filed by Defendant Nickolas H. Culpepper (“Culpepper”). Plaintiff filed a Response, (ECF No. 16), and Culpepper filed a Reply, (ECF No. 18).

For the reasons discussed below, the Court **GRANTS** Culpepper's Motion to Dismiss and **DENIES as moot** Bryant and The Lakes' Motion to Dismiss.

## I. **BACKGROUND**

This case arises from Plaintiff's allegations that he received insufficient notice of his *Sell* hearing in state court, which determined the State of Nevada could administer psychiatric drugs to Plaintiff without his consent in order to restore his competency to stand trial. (See Compl. ¶¶ 2–9, ECF No. 1). Plaintiff alleges that Defendants—his treating physician, a caseworker, and the psychiatric facility at which he was held—are liable under 42 U.S.C. § 1983 for failing to provide Plaintiff adequate notice of the hearing in violation of his Fourteenth Amendment

1 due process rights, which resulted in Plaintiff being unconstitutionally, forcibly medicated. (See  
 2 *id.* ¶¶ 15–25). Plaintiff’s Complaint asserts due process and negligence claims against all  
 3 Defendants. (*Id.*). Defendants now move to dismiss the Complaint. (See Mots. Dismiss  
 4 (“MTDs”), ECF Nos. 11–12).

5 **II. LEGAL STANDARD**

6 Federal Rule of Civil Procedure 12(b)(1) provides for dismissal of an action for lack of  
 7 subject matter jurisdiction. A motion to dismiss for lack of subject matter jurisdiction may take  
 8 one of two forms: either a “facial” or “factual” challenge. *Thornhill Publishing Co. v. General*  
 9 *Tel. & Elec. Corp.*, 594 F.2d 730, 733 (9th Cir. 1979). “In a facial attack, the challenger asserts  
 10 that the allegations contained in a complaint are insufficient on their face to invoke federal  
 11 jurisdiction.” *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004).

12 Alternatively, “[a] factual challenge relies on affidavits or any other evidence properly before  
 13 the court to contest the truth of the complaint’s allegations.” *Courthouse News Serv. v. Planet*,  
 14 750 F.3d 776, 780 (9th Cir. 2014). When a factual challenge is asserted, the court need not  
 15 presume the truthfulness of the allegations in the complaint. *See Meyer*, 373 F.3d at 1039;  
 16 *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000). “Once the moving party has converted the  
 17 motion to dismiss into a factual motion by presenting affidavits or other evidence properly  
 18 brought before the court, the party opposing the motion must furnish affidavits or other  
 19 evidence necessary to satisfy its burden of establishing subject matter jurisdiction.” *Savage v.*  
 20 *Glendale Union High Sch.*, 343 F.3d 1036, 1040 (9th Cir. 2003).

21 **III. DISCUSSION**

22 Culpepper argues that the Court lacks subject matter jurisdiction over the case under the  
 23 *Rooker-Feldman* doctrine. (See Mot. Dismiss (“MTD”) 6:9–7:14). Specifically, Culpepper  
 24 contends that Plaintiff seeks review of the state court’s determination that Plaintiff received  
 25 sufficiently adequate process for the court to proceed with its *Sell* hearing, which the *Rooker-*

1 *Feldman* doctrine places outside the scope of this Court’s jurisdiction. (*Id.*). Plaintiff responds  
 2 that his claims are not barred by the *Rooker-Feldman* doctrine because he is asserting claims  
 3 against Bryant and Culpepper<sup>1</sup> for breaching their fiduciary duties to Plaintiff by failing to  
 4 provide notice of the *Sell* hearing, which is not a collateral attack on the state court  
 5 proceedings. (Pl.’s Resp. 4:2–6:19, ECF No. 16).

6 What has become known as the *Rooker-Feldman* doctrine arises from two United States  
 7 Supreme Court decisions defining federal district court jurisdiction and the relationship  
 8 between federal district courts and state courts. Federal district courts possess “strictly  
 9 original” jurisdiction, and thus have no power to exercise subject matter jurisdiction over a de  
 10 facto appeal from a state court judgment. *See D.C. Ct. of Appeals, et al. v. Feldman*, 460 U.S.  
 11 462, 482 (1983); *Rooker v. Fid. Trust Co.*, 263 U.S. 413, 414–17 (1923); *see also Kougasian v.*  
 12 *TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004). Only the United States Supreme Court has  
 13 jurisdiction to review such judgments. *Feldman*, 460 U.S. at 482. The *Rooker-Feldman*  
 14 doctrine “is confined to cases of the kind from which the doctrine acquired its name: cases  
 15 brought by state-court losers complaining of injuries caused by state-court judgments rendered  
 16 before the district court proceedings commenced and inviting district court review and rejection  
 17 of those judgments.” *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

18 “The clearest case for dismissal based on the *Rooker-Feldman* doctrine occurs when ‘a  
 19 federal plaintiff asserts as a legal wrong an allegedly erroneous decision by a state court, and  
 20 seeks relief from a state court judgment based on that decision . . . .’” *Henrichs v. Valley View*  
 21 *Dev.*, 474 F.3d 609, 613 (9th Cir. 2007) (quoting *Noel v. Hall*, 341 F.3d 1148, 1164 (9th Cir.  
 22 2003)). In addition to barring de facto appeals from state court judicial decisions, the *Rooker-*  
 23 *Feldman* doctrine forbids federal district courts from deciding issues “inextricably intertwined”

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 25 <sup>1</sup> Plaintiff has agreed to dismiss his claims against The Lakes, and he seeks to pursue his claims against Bryant and Culpepper only in their individual capacities. (See Pl.’s Resp. 4:2–17, ECF No. 15).

1 with an issue the state court resolved in its decision. *Noel*, 341 F.3d at 1158. If a plaintiff's suit  
 2 falls within the *Rooker-Feldman* doctrine, then the district court must dismiss the case for lack  
 3 of subject matter jurisdiction. *Kougasian*, 359 F.3d at 1139.

4 Plaintiff's Complaint alleges that Bryant and Culpepper are liable under 42 U.S.C. §  
 5 1983 in their individual capacities because they "deprived plaintiff of his liberty interest in  
 6 freedom from unwanted anti-psychotic drugs" when "defendants, acting under color of statute .  
 7 . . failed to provide plaintiff with adequate advance notice pertaining to said forced medication  
 8 *Sell* hearing sufficient for plaintiff to be constitutionally able to prepare, anticipate, and/or  
 9 defend in said *Sell* hearing and, thus, deprived plaintiff of a constitutionally fair hearing."  
 10 (Compl. ¶¶ 3–4) (internal citations and quotation marks omitted). As relief for the alleged  
 11 breach, Plaintiff seeks "an order declaring Defendant Culpepper's and/or Defendant Bryant's  
 12 conduct unconstitutional[.]" (Compl. at 6).

13 Plaintiff objected to the notice he received at the hearing. (See Transcript of *Sell* Hearing  
 14 6:22–24, Ex. 1 to Compl., ECF No. 2). Having preserved the issue, Plaintiff could have raised  
 15 his present arguments before the appropriate Nevada appellate court. However, this Court  
 16 lacks jurisdiction over Plaintiff's claims because, if Defendants' failure to provide Plaintiff  
 17 advance notice of the *Sell* hearing affected the constitutional sufficiency of the process given in  
 18 state court, then the state court proceeding itself caused Plaintiff's injury. Put differently,  
 19 Plaintiff's claims are inextricably intertwined with the state court's due process finding  
 20 because, but-for the state court's finding that it may proceed with the hearing, Defendants'  
 21 failure to notify would not have injured Plaintiff.

22 Given that Plaintiff seeks relief for an allegedly erroneous determination of a state court,  
 23 this Court lacks jurisdiction over Plaintiff's claims under the *Rooker-Feldman* doctrine. To the  
 24 extent Plaintiff could amend his Complaint to seek damages for Bryant and Culpepper's alleged  
 25 professional negligence, the Court lacks diversity jurisdiction as Plaintiff, Bryant, and

1 Culpepper are all citizens of Nevada. (See Compl. ¶¶ 11–14). Therefore, the Court must  
2 dismiss the Complaint as it lacks jurisdiction over Plaintiff's claims.

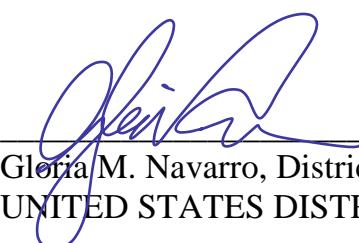
3 **IV. CONCLUSION**

4 **IT IS HEREBY ORDERED** that Culpepper's Motion to Dismiss, (ECF No. 12), is  
5 **GRANTED**.

6 **IT IS FURTHER ORDERED** that the Brown and The Lakes' Motion to Dismiss,  
7 (ECF No. 11), is **DENIED as moot**.

8 The Clerk of Court shall close the case and enter judgment accordingly.

9 Dated this 18 day of December, 2020.

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Gloria M. Navarro, District Judge  
14 UNITED STATES DISTRICT COURT  
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